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IN THE IOWA DISTRICT COURT FOR DUBUQUE COUNTY

**PROPERTY ASSESSMENT
APPEAL BOARD**

**DAVID KUBIK, in his official capacity
as the Dubuque County Assessor, and
COUNTY BOARD OF REVIEW,**

Plaintiff-Appellants,

v.

RIFAT & KIMBERLY SUFI,

Defendant-Appellees,

and

**STATE OF IOWA PROPERTY
ASSESSMENT APPEAL BOARD,**

Intervenor-Appellee.

No. 01311 CVCV 096831

**RULING RE:
ADMINISTRATIVE APPEAL**

FILED
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IOWA DISTRICT COURT
DUBUQUE COUNTY, IOWA

This matter comes before the Court upon the Plaintiffs' appeal of the Property Assessment Appeal Board's order of September 6, 2007. After considering the record, the Court now rules as follows:

STATEMENT OF THE FACTS

Rafit and Kimberly Sufi own an all-brick, ranch home built in 2002. It has 1,489 square feet of living space on the main floor and 920 square feet in a finished basement. The Dubuque County Assessor valued the Sufi's home at \$206,200.00. The Sufis appealed the assessment to the Dubuque County Board of Review by filling out a standardized form. The Sufis described the assessment error on the form as follows:

[O]ver assessed when the market for real estate is very weak and my property has been assessed twice as much as the current inflation rate. Plus I was over assessed a couple of years ago which the county assessor agreed to but never

reimbursed for what I overpaid due to the assessor's mistake. Fair value should be same as last year-\$192,000.

The Sufis also indicated on the form that the assessment of their property was not equitable. They submitted a list of five properties they found to be comparable in value to their property. At the hearing before the Dubuque county review board, the Sufis argued that their property had been assessed at a value that was too high in prior years and that the assessed value should be reduced to compensate for taxes they overpaid. The Dubuque County Appeals Board denied the Sufis' appeal.

The Sufis appealed the decision of the Dubuque County Appeals Board to the State Property Assessment Appeal Board (hereinafter, the Appeal Board). The Appeal Board considered the Sufis' appeal without a hearing, pursuant to the Sufis' request. The Appeal Board held on September 6, 2007 that the Sufis' comparables were a good indication of the fair market value of the Sufis' property and that the assessment should be modified to \$193,100. The Appeal Board provided no explanation for how it determined this amount. The Dubuque County Assessor and the Dubuque County Board of Review appealed the decision to the District Court. The Sufis answered stating they agreed with the Appeal Board's decision. The Appeal Board moved to intervene and its motion was granted. The Appeal Board filed a motion to dismiss which was denied. A hearing on the appeal was held on August 22, 2008.

SCOPE OF REVIEW

Agency actions are governed by the Iowa Administrative Procedure Act. *IBP, Inc. v. Harpole*, 621 N.W.2d 410, 414 (Iowa 2001); Iowa Code § 17A.19(1). The District Court's review of the Appeals Board is limited to corrections of errors at law. Iowa Code § 441.39. The district court may only reverse the Appeal Board's decision if its application of law to facts is "irrational, illogical, or wholly unjustifiable." *Finch v. Schneider Specialized Carriers, Inc.*, 700 N.W.2d 328, 331 (Iowa 2005). The district

court must broadly and liberally construe the Appeal Board's findings to uphold rather than to defeat the decision. *Second Injury Fund of Iowa v. George*, 737 N.W.2d 141, 145 (Iowa 2007). "If the agency ruling does not disclose a sound factual and legal basis for its decision, the court should remand for findings of fact." *Des Moines Independent School Dist. V. Dept. of Job Service*, 376 N.W.2d 605, 610-611 (Iowa 1985). The district court may reverse the agency finding if it is not supported by substantial evidence in the record before the court when the record is viewed as a whole. Iowa Code § 17A.19(10)(f).

The Court has reviewed the entire record and has considered the positions of the parties raised on this appeal.

ANALYSIS

The Appellant's brief raises essentially two main issues. Appellant claims the Appeals Board committed an error of law by failing to provide substantial support for its decision. Appellant further claims the Appeals Board erred in not following established law when determining the value of the property. The Court addresses each of these issues in turn.

First Appellant claims the Appeals Board committed errors at law when it did not provide sufficient evidence to support the relief granted in its decision. Under Iowa Code § 17A.16(1), "[a] proposed or final decision shall include findings of fact and conclusions of law, separately stated." "The decision shall include an explanation of why the relevant evidence in the record supports each material finding of fact." *Id.* "Each conclusion of law shall be supported by cited authority or by a reasoned opinion." *Id.* Thus, the Appeal Board's final decision must include its findings of fact and conclusions of law in separate statements. Additionally, both the findings of facts and conclusions of law must be supported.

The Appeal Board's decision is scarcely more than one page. The decision briefly explains the Appeal Board's findings of fact that the Sufis' comparables were relevant to fair market value and describes the evidence presented. However, the decision ends there. There was no discussion of relevant law, no cited authority, and no support for the Appeal Board's conclusion that there was "no error in the assessment." Additionally, the Appeal Board goes on to modify the decision of the Local Board despite finding no error in the assessment. This is irrational, illogical, and wholly unjustifiable, especially when there is authority in this area of the law.

Appellant also claims the Appeal Board ignored well established law regarding claims of inequity in violation of Iowa Code § 17A.19(10)(c). Property must be assessed at its actual value which is its fair market value. Iowa Code § 441.21(1)(2); *Boekeloo v. Board of Review of the City of Clinton*, 529 N.W.2d 275, 276 (Iowa 1995). The market value method should be used to determine fair market value. *Boekeloo*, 529 N.W.2d at 277. The court in *Boekeloo* held that § 441.21 states a preference for establishing value using evidence of the sales price of the property being assessed or using evidence of comparable sales. *Id.*, at 277. "[A]lternate means of valuation may be used only when market value cannot be readily established using a comparable sales approach." *Id.* The court in *Eagle Food Centers* held that different methods cannot be used to value similar properties. *Eagle Food Centers, Inc. v. Board of Review of the City of Davenport, Scott County*, 497 N.W.2d 860, 863 (Iowa 1993). *Eagle* does not overrule the preference stated in § 441.21 and *Boekeloo*. *Eagle* does not apply in this case where there are several comparable properties that the Appeal Board may use to determine value.

The Appeal Board may use its "experience, technical competence, and specialized knowledge in evaluating the evidence." Iowa Code § 17A.14(5). However, if it uses this specialized knowledge, it is still required by § 17A.16(1) to provide a "reasoned opinion." Because well established law exists and the Appeal Board failed to follow it, the Appeal Board committed an error of law.

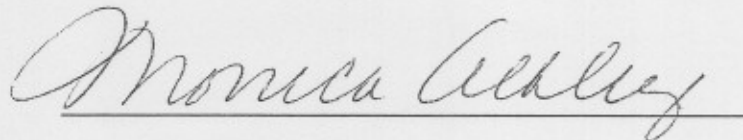
The Appeals Board failed to provide substantial support for its decision and failed to follow existing law to determine the value of the Sufis' property. As such, the Appeal Board committed errors of law. The Appeal Board is obligated under Iowa Code § 17A.16(1) to provide support for its findings of facts and conclusions of law. If the Appeals Board relies on its specialized expertise for its ruling, it must provide a reasoned opinion.

RULING

The Court hereby RULES and ORDERS that the decision of the Appeals Board of September 6, 2008 is reversed and remanded. Costs of the appeal are taxed to the Appellees.

Dated October 27, 2008

BY THE COURT



Judge Monica Ackley,
FIRST JUDICIAL DISTRICT OF IOWA

On 10/29/08
Copy of this document was mailed to
J. Braunschweig-Norris
Rifat Kimberly Sufi
B. Ryan B. Green

